THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

And

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P. No.18014 OF 2005

DATE: 17-08-2005

Between:

M/s. Kranti Road Transport Pvt. Ltd.,

Rep. by its Director

5th Road, Jawahar Auto Nagar,

Vijayawada – 520 007. **.. Petitioner**

AND

The Commissioner of Central Excise

(ADJ) Room No.136, C.R. Building,

IP Estate, New Delhi – 110 002.

.. Respondent

THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

And

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P. No.18014 OF 2005

ORDER: (Per Hon'ble Sri Justice B. Sudershan Reddy)

We are not inclined to interfere with the discretion exercised by the Customs, Excise and Service Tax Appellate Tribunal, Principal Bench, Court-III, New Delhi, in directing the petitioner herein to make pre-deposit of Rs.10,00,000/- (Rupees ten lakhs) within eight weeks from the date of its order, dated 30-06-2005. The petitioner's application for waiver of pre-deposit of the penalty amount of Rs.20,00,000/- is accordingly disposed of by the Tribunal.

Such discretionary orders are not interfered with by this Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India. No exceptional case is made out requiring our interference. The interim order passed by the Tribunal has not resulted in any irreversible situation requiring our interference.

However, Sri V.V.L.N. Sarma, learned counsel for the petitioner, contends that the very same Tribunal in the appeal preferred against the very same order by another appellant, waived the pre-deposit amount and accordingly directed to deposit only an amount of Rs.2,00,000/-, and therefore, there is no reason as to why the petitioner should be required to pay Rs.10,00,000/- towards pre-deposit amount.

The Tribunal in its order, dated 04-07-2005, whereunder it has directed to deposit only an amount of Rs.2,00,000/-, had taken into consideration the plea of the petitioner/appellant therein that its business was closed and the company was under acute financial hardship, which is one of the good reason recorded in support of that order. We find no merit in the contention urged by the learned counsel for the petitioner.

The Writ Petition fails and the same shall accordingly stand dismissed. There shall be no order as to costs.

_____

B. SUDERSHAN REDDY, J

Date:17-08-2005.

_____

RAMESH RANGANATHAN, J

PV